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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,007	11/08/2005	Matthew P.J. Baker	GB 030181	4551

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BRIARCLIFF MANOR, NY 10510

EXAMINER

BATISTA, MARCOS

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

07/09/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Office Action Summary

Application No.

10/556,007

Applicant(s)

BAKER ET AL.

Examiner

MARCOS BATISTA

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 08/16/2007
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(e) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1-10, 16-27, 33-36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apostolides et al. (US 6829226 B1), hereafter "Apostolides," in view of Das

et al. (US 20030087605 A1), hereafter “Das.”

Consider claim 1, Apostolides discloses a mobile station (16) for use in a communication system having a base station (18), the mobile station comprising power control signal generation means for generating a power control signal for enabling the base station to adjust its transmit power level in accordance with a power control loop process (see **figs.1 and 4, col. 6 lines 53-61**), report generation means for generating reports from measurements of a characteristic of a signal received from the base station (see **figs.1 and 4, col. 6 lines 48-50**), transmitter means for transmitting the reports and the power control signal to the base station (see **fig. 4, col. 6 lines 48-61**).

Apostolides, however, does not particular refer to a transmission control means adapted to control the time of transmission of the reports such that first of the reports are transmitted at a predetermined sequence of times and, in response to an interruption in the power control loop or the reporting, and for a period existing at least one of before, during and after the interruption, one or more second of the reports are transmitted at times not coincident with the predetermined times.

Das, teaches a transmission control means adapted to control the time of transmission of the reports such that first of the reports are transmitted at a predetermined sequence of times (see **fig. 2, par. 0016 lines 3-7**) and, in response to an interruption in the power control loop or the reporting, and for a period existing at least one of before, during and after the interruption, one or more second of the reports are transmitted at times not coincident with the predetermined times

(see par. 0017 lines 7-24).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Apostolides and have it include a transmission control means adapted to control the time of transmission of the reports such that first of the reports are transmitted at a predetermined sequence of times and, in response to an interruption in the power control loop or the reporting, and for a period existing at least one of before, during and after the interruption, one or more second of the reports are transmitted at times not coincident with the predetermined times, as taught by Das. The motivation would have been in order to be able to maintain data exchange synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 2, Apostolides as modified by Das teaches claim 1, Apostolides further teaches wherein the power control signal comprises power control commands (see col. 6 lines 50-52).

Consider claim 3, Apostolides as modified by Das teaches claim 1, Das further teaches wherein the report generation means is adapted to generate at least one of the second reports from a measurement of shorter duration than the measurement duration used to generate the first reports (see par. 0016 lines 14-18).

It would have been obvious to have modified Apostolides' invention with the teaching of Das. The motivation would have been in order to be able to maintain data exchange

synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 4, Apostolides as modified by Das teaches claim 1, Das further teaches wherein the report generation means is adapted to generate the earliest report transmitted after the end of the interruption from a measurement commenced before the end of the interruption (see par. 0018 lines 1-4).

It would have been obvious to have modified Apostolides' invention with the teaching of Das. The motivation would have been in order to be able to maintain data exchange synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 5, Apostolides as modified by Das teaches claim 1, Das further teaches wherein the transmission control means is adapted to select, in response to an indication of the length of the interruption, the start time of the period for which the second reports are transmitted (see par. 0019 lines 1-5).

It would have been obvious to have modified Apostolides' invention with the teaching of Das. The motivation would have been in order to be able to maintain data exchange synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 6, Apostolides as modified by Das teaches claim 1, Das further teaches wherein the transmission control means is adapted to select, in response to an indication of the length of the interruption, the duration of the period for which the second reports are transmitted (see par. 0019 lines 1-5).

It would have been obvious to have modified Apostolides' invention with the teaching of Das. The motivation would have been in order to be able to maintain data exchange synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 7, Apostolides as modified by Das teaches claim 1, Das further teaches wherein the transmission control means is adapted to select, in response to an indication of the length of the interruption, the number of the second reports transmitted in the period (see par. 0019 lines 1-5).

It would have been obvious to have modified Apostolides' invention with the teaching of Das. The motivation would have been in order to be able to maintain data exchange synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 8, Apostolides as modified by Das teaches claim 1, Das further teaches wherein the duration of the period for which the second reports are transmitted is predetermined (see par. 0020 lines 4-7).

It would have been obvious to have modified Apostolides' invention with the teaching of Das. The motivation would have been in order to be able to maintain data exchange synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 9, Apostolides as modified by Das teaches claim 1, Das further teaches wherein the number of the second reports transmitted in the period is predetermined (see par. 0020 lines 4-7).

It would have been obvious to have modified Apostolides' invention with the teaching of Das. The motivation would have been in order to be able to maintain data exchange synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 10, Apostolides as modified by Das teaches claim 1, Das further teaches wherein the period terminates when the next predetermined time occurs (see par. 0020 lines 16-19).

It would have been obvious to have modified Apostolides' invention with the teaching of Das. The motivation would have been in order to be able to maintain data exchange synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 16, Apostolides as modified by Das teaches claim 1, Das further teaches wherein the transmission control means is adapted to, after one or more second reports have been transmitted, apply a time shift to the predetermined sequence of times for the transmission of subsequent first reports (see par. 0020 lines 4-7, 16-19).

It would have been obvious to have modified Apostolides' invention with the teaching of Das. The motivation would have been in order to be able to maintain data exchange synchronization between the mobile and the base station after a delay (see par. 0017 lines 7-24).

Consider claim 17, Apostolides as modified by Das teaches claim 1, Apostolides further teaches radio communication system comprising a base station (18) and at least one mobile station (16) as claimed in claim 1 (see fig. 1, col. 6 lines 48-50).

Consider claims 18-27 and 33, these claims discuss the same subject matter as claims 1-10 and 16 respectively. Therefore, they have been analyzed and rejected based upon the rejection to claims 1-10 and 16.

Consider claims 34-36, these claims discuss the same subject matter as claims 1, 2 and 5 respectively. Therefore, they have been analyzed and rejected based upon the rejection to claim 1, 2 and 5.

Consider claim 38, this claim discusses the same subject matter as claim 5. Therefore, it has been analyzed and rejected based upon the rejection to claim 5.

3. Claims 11-14, 28-31 and 37, are rejected under 35 U.S.C. 103(a) as being unpatentable over Apostolides et al. (US 6829226 B1), hereafter "Apostolides," in view of Das et al. (US 20030087605 A1), hereafter "Das," further in view of Seo et al. (US 20030123396 A1), hereafter "Seo."

Consider claims 11-14, Apostolides as modified by Das teaches claim 1, but neither Apostolides nor Das particular refer to wherein the transmission control means is adapted to terminate the period in response to an indication of convergence of the power control loop; wherein the indication of convergence is a signal received from the base station; wherein the transmitter control means is adapted to generate the indication of convergence in accordance

with a predetermined criterion; wherein the predetermined criterion is a reversal of the sign of at least one power control command.

Seo teaches wherein the transmission control means is adapted to terminate the period in response to an indication of convergence of the power control loop (see par. 0038 lines 1-7); wherein the indication of convergence is a signal received from the base station (see par. 0039 lines 1-2); wherein the transmitter control means is adapted to generate the indication of convergence in accordance with a predetermined criterion (see par. 0040 lines 1-3); wherein the predetermined criterion is a reversal of the sign of at least one power control command (see par. 0068 lines 1-8).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Apostolides as modified by Das and have it include wherein the transmission control means is adapted to terminate the period in response to an indication of convergence of the power control loop; wherein the indication of convergence is a signal received from the base station; wherein the transmitter control means is adapted to generate the indication of convergence in accordance with a predetermined criterion; wherein the predetermined criterion is a reversal of the sign of at least one power control command, as taught by Seo. The motivation would have been in order to decrease interference when getting close to a handoff region (see par 0069 lines 1-4, 11-15).

Consider claims 28-31, these claims discuss the same subject matter as claims 11-14 respectively. Therefore, they have been analyzed and rejected based upon the rejection to claim 11-14.

Consider claim 37, this claim discusses the same subject matter as claim 11. Therefore, it has been analyzed and rejected based upon the rejection to claim 11.

4. Claims 15 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apostolides et al. (US 6829226 B1), hereafter "Apostolides," in view of Das et al. (US 20030087605 A1), hereafter "Das," further in view of Cudak et al. (US 20050289256 A1), hereafter "Cudak."

Consider claim 15, Apostolides as modified by Das teaches claim 1, but neither Apostolides nor Das particular refer to wherein the report generation means is adapted to suspend generation of the first reports during the interruption.

Cudak teaches wherein the report generation means is adapted to suspend generation of the first reports during the interruption (see par. 0053 lines 1-5).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Apostolides as modified by Das and have it include wherein the report generation means is adapted to suspend generation of the first reports during the interruption, as taught by Cudak. The motivation would have been in order to allow the base station to better manage its resources by controlling the transmission of quality report from the mobile station (see par. 0055 lines 1-8).

Consider claim 32, this claim discusses the same subject matter as claim 15. Therefore, it

has been analyzed and rejected based upon the rejection to claim 15.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marcos Batista, whose telephone number is (571) 270-5209. The Examiner can normally be reached on Monday-Thursday from 8:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Pérez-Gutiérrez can be reached at (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Marcos Batista
/M. B./
06/30/2008

Art Unit: 2617

/Rafael Pérez-Gutiérrez/

Supervisory Patent Examiner, Art Unit 2617